

REMARKS

This Amendment is in response to the Office Action, dated December 22, 2009 ("Office Action"). Claims 1-8, 10-11, 13-14, 16-18 are pending in the instant application; claims 1-8 and 18 having been amended by virtue of the present amendment (claims 9, 12, and 15 having been previously canceled). No new matter is added. Examination of the claims in view of the ensuing remarks is respectfully requested.

The specification has been amended to insert sequence identifiers for Table 1 and to note that the sequences therein are residues "X" to "Y" of those contained in the sequence listing.

Table 1 has also been amended to correct obvious errors for the sequences noted as "GIN 36," which is the first 8 residues of SEQ ID No. 4, and "GIN 38," which is the first 9 residues of SEQ ID No. 6. Support for this amendment may be found throughout the specification, for example, on pages 11, 12 and 33.

The specification has been amended to change SEQ ID No. 2 to SEQ ID No. 48 when referring to the following amino acid sequence, LRTRKRGRKLRTRKRGRK, which is also referred to as "GIN 16" in the specification.

The specification has also been amended to add SEQ ID NO. 48 to the sequence listing. A substitute sequence listing is submitted herewith. No new matter is added to the substitute sequence listing. Support for the substitute sequence listing may be found, for example, on page 5 of the specification as filed.

Claim 1 has been amended to indicate that HSPG is "heparin sulphate proteoglycan." No new matter is added. Support may be found throughout the specification; for example, page 4.

Claims 1 and 2 have been amended to change "derived from" to "obtained from." No new matter is added. Support may be found throughout the specification.

Claims 1-8 and 18 have been amended to indicate that the polypeptide is an "isolated" polypeptide. No new matter is added. Support may be found throughout the specification.

Claim 3 has been amended to provide the sequence for apoB3359. No new matter is added. Support may be found throughout the specification.

Claim 7 has been amended to change SEQ ID No. 2 to SEQ ID No. 48. No new matter is added. Support may be found throughout the specification; for example, on page 5.

In the Office Action, the Examiner has acknowledged Applicant's election that reads upon claims 1-8 and 18.

The specification is objected to due to certain alleged informalities. The Examiner indicated that there was a discrepancy regarding SEQ ID NO. 2. The Examiner also indicated that Table 1 on page 8 required sequence identifiers.

As shown in the "Amendments to the Specification" section above, Table 1 has been amended to include a sequence identifier for each of the sequences listed in the table and notes that the sequences are residues "X" to "Y" of the sequences contained in the sequence listing. The specification has been amended throughout to change SEQ ID No. 2 to SEQ ID NO. 48 when referring to the following amino acid sequence, LRTRKRGRKLRTRKRGRK, which is also referred to as "GIN 16" in the specification. Additionally, a substitute sequence listing is filed herewith to provide SEQ ID No. 48, which is LRTRKRGRKLRTRKRGRK and appears on page 5 of the specification. Applicant respectfully requests entrance of the substitute sequence listing as part of the application. No new matter is added to the substitute sequence listing. In light of the foregoing, Applicant respectfully requests the withdrawal of this objection.

Claims 1-7 and 18 are rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter. Applicant respectfully traverses this rejection. However, in the interest of advancing prosecution and without conceding to the merits of the rejection, the claims have been amended to indicate that the polypeptides are "isolated" polypeptides. Applicant respectfully request reconsideration and withdrawal of the rejection.

Claims 1-8 and 18 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement for reasons of record. Applicant traverses this rejection.

Applicant submits that the claims 1-8 and 18 fully comply with the written description requirement. The specification provides sufficient detail to convey to one of ordinary skill in the art that Applicant had possession of the claimed invention. Contrary to the Examiner's allegations, the specification describes more than "several species of antiviral peptides (listed on pages 11-12)." Pages 11-12 disclose 20 different peptides. In addition to these peptides, the specification provides a definition, by structure and formula that is sufficient to distinguish it from other materials. For example, the specification discloses formulas I, II, III and IV, which specifically sets forth additional species of the genus of the claimed polypeptide. The combination of this disclosure clearly conveys to one of ordinary skill in the art that Applicant had possession of the claimed invention at the time of the filing of the application.

In light of the foregoing, Applicant respectfully request reconsideration and withdrawal of this rejection.

Claims 1-8 and 18 are rejected under 35 USC 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection.

With respect to "derived from," while Applicant in no way concedes to the merits of the Examiner's rejection, the claims have been amended to change "derived from" to "obtained from" in the interest of advancing prosecution.

With respect to the term "derivative," Applicant respectfully submits that one of ordinary skill in the art, based on the definition provided in the specification and the general knowledge in the art, would readily appreciate the meaning and recognize the metes and bounds of the claims. As indicated on page 4 of the specification, "derivative" refers to "a polypeptide within which amino acids residues are replaced by residues (whether natural amino acids, non-natural amino acids or amino acid mimics) with similar side chains or peptide backbone properties. Additionally, the terminals of

such peptides may be protected by N and C-terminal protecting groups with similar properties to acetyl or amide groups.”

With respect to claim 3, it has been amended to recite the sequence for apoB3359-3367.

With respect to claim 7, it has been amended to change the sequence identifier from SEQ ID No. 2 to SEQ ID No. 48.

In light of the foregoing, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1-4 and 8 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Lunec *et al.* (WO 98/42751). The Examiner asserts that Lunec *et al.* teaches a molecule that inhibits uptake by the high affinity LDL receptor of LDL, the molecule having the sequence of RLTRKRGLKLA (residues 3359-3369 of apoprotein B 100), and a composition comprising the molecule and a pharmaceutically acceptable carrier. Applicant respectfully traverses this rejection.

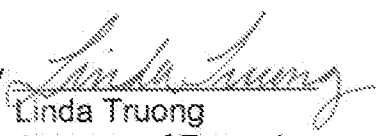
A claim is anticipated if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference (MPEP §2131, citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987)).

Applicant submits that Lunec *et al.* does not anticipate claims 1-4 and 8. Lunec *et al.* does not disclose a polypeptide having a tandem repeat of the HSPG receptor binding region of apolipoprotein B, as required by the claims. As such, the sequences disclosed by Lunec *et al.* are not the same as those claimed by claims 1-4 and 8. In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the rejection under §102(b).

//... p. 14.

All of the claims in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited. If for any reason Examiner finds the application other than in condition for allowance, Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 633-6800 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,
CURTIS DOBSON
DAVIS WRIGHT TREMAINE LLP

By 
Linda Truong
Attorney of Record
Registration No. 56,461

865 South Figueroa Street, Suite 2400
Los Angeles, CA 90017-2566
Phone: (213) 633-6800
Facsimile: (213) 633-6899